

States Supreme Court opinion to rewrite Texas law was simply wrong.

As she did in answer to questions about a couple of other cases at her hearing, Justice Owen tried to explain away this problem with an after the fact justification. She told Senator CANTWELL that the reference to religion was not to be found in Casey after all, but in another U.S. Supreme Court case, *H.L. v. Matheson*. She explained that in, "Matheson they talk about that for some people it raises profound moral and religious concerns, and they're talking about the desirability or the State's interest in these kinds of considerations in making an informed decision." Transcript at 172. But again, on reading Matheson, one sees that the only mention of religion comes in a quotation meant to explain why the parents of the minor are due notification, not about the contours of what the government may require someone to prove to show she was fully well informed. Her reliance on Matheson for her proposed rewrite of the law is just as faulty as her reliance on Casey. Neither one supports her reading of the law. She simply tries a little bit of legal smoke and mirrors to make it appear as if they did. This is the sort of ends-oriented decision making that destroys the belief of a citizen in a fair legal system. And most troubling of all was her indicating to Senator FEINSTEIN that she still views her dissents in the Doe cases as the proper reading and construction of the Texas statute.

Last May, President Bush said that his standard for judging judicial nominees would be that they "share a commitment to follow and apply the law, not to make law from the bench." Priscilla Owen's record, as I have described it today, does not qualify her under that standard for a lifetime appointment to the Federal bench.

The President has often spoken of judicial activism without acknowledging that ends-oriented decision making can come easily to ideological conservative nominees. In the case of Priscilla Owen, we see a perfect example of such an approach to the law, and I cannot support it.

As I said earlier, when the President sends us a nominee who raises concerns over qualifications or integrity or who has a misunderstanding of the appropriate role of a federal judge, I will make my concerns known. This is one of those times. In his selection of Priscilla Owen for the Fifth Circuit, the President and his advisors are trying to do to the Fifth Circuit what they did to the Texas Supreme Court. Plucked from a law firm by political consultant Karl Rove, Justice Owen ran as a conservative, pro-business candidate for the Texas Supreme Court, and she received ample support from the business community. She fulfilled her promise, becoming the most conservative judge on a conservative court, standing out for her ends-oriented, extremist decision making. Now, on a bigger stage, the President and Mr. Rove want a re-

peat performance: sending Justice Owen to a court one step below the Supreme Court of the United States, attempting to skew its decisions out of step with the mainstream.

Before and after he took office, President Bush said he wanted to be a uniter and not a divider, yet he has sent the Senate several nominees who divide the Senate and the American people. Over the last 14 months, the Judiciary Committee has exceeded the pace of recent years in approving more than six dozen of the President's judicial nominees—most of them, conservative Republicans. The Senate by now has confirmed 73 of them. This committee and the Senate have made the judgment that those nominees will fulfill their duties to act fairly and impartially. I urge the President to choose nominees who fit that profile, not the profile of Justice Owen.

The oath taken by Federal judges affirms their commitment to "administer justice without respect to persons, and do equal right to the poor and to the rich." No one who enters a federal courtroom should have to wonder whether he or she will be fairly heard by the judge. Justice Priscilla Owen's record shows me that she has not fulfilled that commitment on the Supreme Court of Texas, and I cannot vote to confirm her for this appointment to one of the highest courts in the land.

IMPROVING THE GENETIC NEWBORN SCREENING PROGRAM

Mr. DEWINE. Mr. President, on August 1, along with my colleague from Connecticut, Senator DODD, introduced a bill designed to improve the Nation's current genetic newborn screening program. Our legislation would provide education grants for physicians and parents, as well as grants to States to improve follow-up and tracking of those children who receive a heelstick screening and receive a positive result for metabolic, genetic, infectious, and other congenital conditions that threaten their health and life.

Each year, newborn screening identifies an estimated 3,000 babies with conditions that would otherwise have had dire consequences. But despite their clear importance, our newborn screening systems are fragmented. Quite simply, all children do not have access to the same genetic tests. Where a child is born and what tests are offered in that State is what determines the tests a newborn receives. In my home State of Ohio, we test for 12 disorders, while right across the border in Kentucky, they test for only four disorders and in Pennsylvania, they test for five. In Massachusetts, however, newborns are tested for 29 disorders.

Furthermore, parents often are not sufficiently informed of the number of tests available in their state and what those tests can help accomplish. Physicians may not know to educate parents, or physicians may talk to parents

too late in the birthing process for it to make a difference. Also, State health departments may not follow-up adequately with the parents of a child who receives a positive test result, and health departments may not have the capacity to effectively record or track a large number of positive results.

The bill we are introducing today would go a long way toward streamlining the current newborn screening system by offering states grants to accomplish the following: build and expand existing procedures and systems to report test results to individuals and families, and primary care physicians and subspecialties; coordinate ongoing follow-up treatment with individuals, families, and primary care physicians after a newborn receives an indication of the presence of a disorder on a screening test; ensure seamless integration of confirmatory testing, tertiary care, genetic services, including counseling, and access to developing therapies by participation in approved clinical trials involving the primary health care of the infant; and analyze collected data to identify populations at high risk, examine and respond to health concerns, recognize and address relevant environmental, behavioral, socioeconomic, demographic, and other factors.

This bill is a good start toward ensuring that all newborns receive equal access to genetic tests and that their follow-up care, if needed, is available and coordinated. The importance of these screenings cannot be overstated. It can mean the difference between life and death for a newborn. And that, is something we must address.

I ask my colleagues for their support.

ADDITIONAL STATEMENTS

FIESTA 2002 CELEBRATION

● Mr. LUGAR. Mr. President, as a lifelong supporter of cultural heritage events and friend of the Indianapolis Hispanic-Latino Community, I rise today to share with my colleagues my interest in, and strong support for, an important cultural event that will take place in Indianapolis on September 21.

For the 22nd year, Fiesta will be held on the American Legion Mall in downtown Indianapolis to celebrate Hispanic culture and heritage. This is the premier Hispanic cultural event for the State of Indiana.

Fiesta 2002 will highlight the music, food, and traditions of Hispanic culture and provide an educational opportunity for everyone to learn more about Hispanic traditions and understand the contributions Hispanics in Indiana have made to enrich and strengthen our community.

Attendees for this public event will have the opportunity to enjoy a wide range of activities that showcase the Hispanic traditions in music, history, art, and food, among many others. Information booths, contests, and speakers will be set up to encourage